IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

WP(C).No. 26856 of 2007(V)

PETITIONER:

JOMY GEORGE, KUNNAPULLIYEL HOUSE,
PARIYARAMANGALAM, KIDANGOOR P.O.,KOTTAYAM.

BY ADV. SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE

RESPONDENTS:

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1. KIDANGOOR GRAMA PANCHAYAT,
KIDANGOOR.P.O., KOTTAYAM-686 572,REPRESENTED
BY ITS SECRETARY.

2. THE SECRETARY,
KIDANGOOR GRAMA PANCHAYAT,
KIDANGOOR.P.O.,KOTTAYAM-686 572

3. THE HEALTH INSPECTOR, KOODALLUR,
KOTTAYAM.

R3 BY ADV. SRI. K.J. MOHAMMED ANZAR, GOVT. PLEADER.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C) No. 26856 OF 2007

Dated this the 10th day of September, 2007

JUDGMENT

In this Writ Petition the grievance of the petitioner, who claims to be an unemployed youth who commenced the conduct of a cold storage on the first of 'Chingam' this year, is that the Kidangoor Panchayat has issued Ext.P1 order directing him to stop functioning of his cold storage on the ground that he has started the cold storage without obtaining a licence from the Panchayat and that his activities are likely to pollute the water in the Well situated in the compound of the local N.S.S Higher Secondary School. According to him, the Panchayat is yet to issue a notification under Section 232 of the Panchayat Raj Act specifying that for the conduct of cold storage within the limits of the Panchayat, a licence is required. For want of any such notification under Rule 4 of the Panchayat Raj (Issuance of licence to Dangerous and Offensive Trades and Factories) Rules 1996, the Panchayat's insistance for a licence by the petitioner is not justified. He submits that by way of abundant caution he has submitted an application for licence, as Ext.P3 and the same is pending.

I have heard the learned Government Pleader,Sri.K.J. Mohammed Anzar, who has taken notice on behalf of the 3rd respondent

also. According to the petitioner the 3rd respondent has already reported after inspection that the petitioner's cold storage is not causing any pollution or other public health problems. As rightly submitted by the learned Government Pleader, Ext.P1 is only a notice though the same directs the petitioner to stop his business. The petitioner and the Panchayat will treat Ext.P1 as a notice only and the petitioner is permitted to file objection to Ext.P1 before the Panchayat within one week from today. If the Panchayat receives any objections from the petitioner within the stipulated time, the Panchayat will hear the petitioner on the issue of finalising Ext.P1 and finalise the proceedings pursuant to Ext.P1 only thereafter. If the Panchayat is not impressed by the petitioner's argument that for want of a notification there is no necessity to have a licence for conducting cold storage with the Panchayat limits, then also the Panchayat will take final decision on Ext.P3, after hearing the petitioner and take a decision which will be communicated to the petitioner. Till such time as the Panchayat issues proceedings finalizing Ext.P1 and passes orders on Ext.P3, as regards the petitioner's shop the status quo obtaining as on today will be permitted to be maintained by the Panchayat. If it is on the basis of any complaint submitted by the NSS Higher Secondary School that Ext.P1

was issued to the petitioner before finalizing Ext.P1, the Panchayat will hear the school authorities also.

PIUS C. KURIAKOSE, JUDGE

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